

ESTTA Tracking number: **ESTTA477327**

Filing date: **06/11/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91204777
Party	Defendant Ninja Entertainment Holdings, LLC
Correspondence Address	MARC A LAVAIA ROBINSON BROG LEINWAND GREENE GENOVESE & GLUCK PC 3629 212TH ST BAYSIDE, NY 11361-2048 UNITED STATES danielkelman@gmail.com
Submission	Other Motions/Papers
Filer's Name	Daniel Kelman
Filer's e-mail	danielkelman@gmail.com
Signature	/Daniel/Kelman/
Date	06/11/2012
Attachments	ANSWER Apple.pdf (2 pages)(70166 bytes) Certificate of Service.pdf (1 page)(54031 bytes) USPTO CRAPPLE Cover Letter.pdf (1 page)(38573 bytes)

**THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re the Matter of Application Serial No.: 85/379,097
Filed: July, 22 2011
Published in the Official Gazette: December 20, 2011

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APPLE, INC.,	:	Opposition No.:
	:	
- against -	:	
	:	
NINJA ENTERTAINMENT HOLDINGS, LLC,	:	ANSWER TO NOTICE OF
Applicant.	:	OPPOSITION
-----X		

Applicant, Ninja Entertainment Holdings, LLC answers the Notice of Opposition as follows:

1. Applicant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraphs 7, 8, 9, 10, 12 and 14 of the Notice of Opposition.
2. Applicant admits the allegations contained in paragraphs 1, 2, 3, 4, 5, 11 and 13 of the Notice of Opposition.
3. Applicant denies the allegations in paragraphs 16, 17, 18, 19, 20, 21, 22, 23 and 24 the Notice of Opposition.

FIRST AFFIRMATIVE DEFENSE

Opposer's Notice of Opposition fails to state a claim upon which relief can be granted, and in particular, fails to state legally sufficient grounds for sustaining the opposition.

SECOND AFFIRMATIVE DEFENSE

Applicant's use of its mark will not mistakenly be thought by the public to derive from the same source as Opposer's goods, nor will such use be thought by the public to be a use by Opposer or with Opposer's authorization or approval.

THIRD AFFIRMATIVE DEFENSE

Applicant's marks in their entirety are sufficiently distinctively different from Opposer's marks to avoid confusion, deception or mistake as to the source or sponsorship or association of Applicant's goods.

RELIEF REQUESTED

WHEREFORE, Applicant respectfully requests that this opposition proceeding be dismissed, with prejudice.

Dated: New York, New York
May 28, 2012

By: DANIEL KELMAN
Daniel J. Kelman, Esq.
Ninja Entertainment Holdings, LLC
36-29 212 St
Bayside, NY 11361

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 28th day of May 28, 2012, a true and correct copy of the foregoing ANSWER TO NOTICE OF OPPOSITION was served via First Class Mail upon the following:

Joseph Peterson
Kilpatrick Townsend & Stockton LLP
1114 Avenue of the Americas, 21st Floor
New York, NY 10036

Dated: MAY 28, 2012

Signature: DANIEL KELMAN
Daniel J. Kelman

To Whom it may concern:

This letter is to address the reason for a filing error in this opposition. The wrong file was uploaded onto the USPTO server. However, a true and correct copy of Ninja Entertainment's answer to Apple's opposition was timely served on Apple. Please excuse this error, as it is my first time engaging in an opposition before the TTAB. Please note that since Apple was timely served a true and correct copy of the answer they have not been prejudiced in their zealous opposition to Ninja Entertainment's mark, Crapple.

Very Truly Yours,

Daniel Kelman